

# MEMORANDUM

**TO:** Members, Clark Fork Basin Water Management Task Force  
**FROM:** Gerald Mueller  
**SUBJECT:** Summary of the October 24, 2005 Task Force Meeting  
**DATE:** October 25, 2005

## Participants

The following people participated in the Task Force meeting:

### *Task Force Members:*

Rep. Verdell Jackson	House District 6
Marc M. Spratt	Flathead Conservation District
Arvid "Butch" Hiller	Mountain Water Company
Holly Franz	PPL Montana
Rep. Joey Jayne	House District 15
Jim Dinsmore	Upper Clark Fork
Fred Lurie	Blackfoot Challenge
Bill Slack	Flathead Joint Board of Control of the Flathead Irrigation Project
Gail Patton	Sanders County
Elna Darrow	Flathead Basin Commission
Matt Clifford	Clark Fork Coalition

### *Staff:*

Gerald Mueller	Consensus Associates
Mike McLane	Montana Department of Natural Resources and Conservation (DNRC)

### *Other:*

Phil Tourangeau	CS&KT
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## Meeting Goals

- Discuss the Task Force membership
- Learn about Mountain Water Company
- Discuss the ground water conference
- Discuss a funding opportunity
- Discuss the Fred Matt letter regarding Hungry Horse negotiations
- Review work plan
- Schedule meeting

## Task Force Membership

Rep. Joey Jayne has joined the Task Force as an *ex officio* member. Mr. Mueller stated that he sent a letter to DNRC Director Mary Sexton asking that she appoint those listed in Appendix 1 below to two year terms as either members or *ex officio* members of the Task Force. Mr. McLane reported that Director Sexton will likely appoint the recommended members, but she is also interested in representation of business interests such as chambers of commerce and in increasing the number of women members. Mr. Mueller stated that when the Task Force was first formed, the Montana Consensus Council interviewed chambers of commerce throughout the Clark Fork Basin, but no one from these organizations were interested in Task Force membership. Gail Patton agreed to contact the Northwest Montana Resource Conservation and Development Council (RC&D) to see if a representative of that organization would be interested

in participating on the Task Force. Jim Dinsmore agreed to contact a representatives of both Bitterroot and Headwaters RC&D with a similar request. Mr. Mueller also noted that Rep. Gary MacLaren, House District 89, also expressed an interest in *ex officio* membership on the Task Force.

### **Mountain Water Company Presentation**

Arvid Hiller gave a Power Point presentation describing the Mountain Water Company which provides water service in the Missoula area. Mountain Water is an investor-owned utility that produces eight billion gallons (equal to 80.3 cubic feet per day) of water annually from wells. It also has water rights on Rattlesnake Creek for 55 cfs and has storage rights in lakes in the Rattlesnake Wilderness Area. Because the Missoula aquifer is so prolific, Mountain Waters while pumping results in very little draw down in the well casing from static levels. Mountain Water as a private investor owned utility is by its nature is risk adverse, meaning that protection of water quality is of paramount concern. The Company maintains rigorous water quality monitoring and adheres strictly to water quality standards. The major challenges it faces include:

- Potential arsenic contamination from the removal of Milltown Dam;
- Maintaining system security;
- Protecting the sole source aquifer;
- Meeting growth (quantity, location of mains, and supply);
- Meeting increasingly strict water quality standards;
- Keeping rates affordable; and
- Making personnel changes.

Mr. Hiller also stated that studies indicate that the Clark Fork River is the source of 80% of the ground water in the Missoula aquifer.

*Task Force Member Question - Has the quality of Missoula's ground water changed over time?*

Answer - Yes. It has improved. Perchloroethylene used to be used as a dry cleaning solvent and was found in our ground water. Today, since PERC is no longer used, we are unable to detect it in the ground water. Other wise we have not detected any increase in any other contaminant levels.

*Task Force Member Question - What about nitrates?*

Answer - Nitrate concentrations have remained consistently low since we began monitoring for it in the 1980's. One exception to this is three wells that serve the Linda Vista area in that since the developer (Lloyd Twite) connected most of the residence to the centralized City sewer system the nitrate levels have dropped from the time he owned the water system in that area.

*Task Force Member Question - At what point would nitrate concentrations in the Clark Fork River become a problem for the aquifer?*

Answer - We do not understand mixing well. We know that the nitrate concentrations in the river and in the aquifer are not the same. The ground acts as a filter, but we do not know at what point we will over tax the filtering capability.

*Task Force Member Question - What is your view of centralized sewer systems?*

Answer - We believe centralized sewer is a good idea which protects water quality. A challenge for Missoula is its lack of collection and treatment of storm water runoff. Missoula has some

6,000 french (class five injection wells) drains which discharge into the aquifer.

*Task Force Member Question - What is the extent of the Missoula aquifer?*

Answer - It generally lies under the Missoula valley. The Rattlesnake valley has its own aquifer. Water quality at the Wye (the intersection of I-90 and Highway 93 going north) has a poor quality aquifer. The general depth of the aquifer varies from 45' to 140'. Our aquifer also moves very rapidly - hundreds of feet per day - compared to most ground water.

*Task Force Member Question - Is there ground water beneath the BFI land fill?*

Answer - There is a perched aquifer beneath the site that BFI protects using lining. The natural flow lines are thought to not affect present Mountain Water Company wells in that area.

*Task Force Member Question - The Missoula aquifer supports other wells than those owned by Mountain Water? Do you know what the total demand on the aquifer is?*

Answer - No. Our demand is about 450 thousand acre-feet/year. The aquifer level does not measurably change substantially as a result of our pumping. There is a seasonal change that results from wet and dry periods.

*Task Force Member Question - We learned in writing the water management plan that the most effective single water conservation measure is a water meter so that people are charged based on their usage. Do all of your customers have water meters?*

Answer - No. Some 6,000 out of a total of 22,000 connections lack meters. These are older hookups. All new hookups require meters. Although Missoula does not have a shortage of groundwater, the cost of electricity to pump the water is a reason to conserve water. Our power bill is about \$1.2 million per year.

*Task Force Member Question - Are there organizations of water companies?*

Answer - Yes, there are two organizations in the state. One is the Montana Chapter of the American Water Works Association, and the other is the Montana Rural Water Association. The latter includes members with 3,000 or less customers.

*Task Force Member Question - How do your ground water rights compare to your usage rates?*

Answer - Our rights are larger than our present use.

## **Ground Water Conference**

The Task Force discussed the ground water conference included in its work plan. Two different conferences are possible. One would be a conference aimed at watershed groups, and the topic would be general water availability. The second is a more technical conference aimed at understanding basin ground water and the issues it presents.

The audience for the second conference would include:

- Task Force members and the organizations they represent;
- Local (county commissions and sanitarians), state (DNRC and DEQ), and federal (USGS and BOR) government agencies;
- Universities, and particularly the Montana Water Center;
- Tribes; and
- Organizations such as the Tri-State Implementation Council.

Topics that this conference might address include:

#### Ground Water Information

- What do we know about the Basin's ground water and its interaction with surface water?
- What do we need to know?
- How do we acquire that information?

#### Policy Issues

- Conjunctive management (i.e. management of surface and ground water as one resource);
- Joint management (e.g., DEQ and DNRC require different pumping tests for new wells);
- 35 gpm exemption for permitting new wells; and
- Water marketing.

#### Future Water Needs

- Estimates of future water demands; and
- Planning activities to meet the future demands.

One way to organize a conference would be to convene a steering committee. Possible steering committee members for the technical ground water conference include representatives of:

- DNRC and DEQ;
- The Montana Water Center;
- Montana Bureau of Mines and Geology (Professor LaFavre);
- The Riverine Institute (Professors Moore and Woesner); and
- USGS and BOR.

#### **Conference Next Steps**

Mr. Mueller will contact Professors Moore and Woesner. Mr. McLane will contact the Montana Water Center.

#### **Funding Opportunity**

Gail Patton has identified the RC&Ds as a possible funding source for the Task Force. We will pursue this as a source of funding for the ground water conference.

#### **Fred Matt Letter**

Subsequent to sending the letter to Mary Sexton included below as Appendix 2, Mr. Mueller received a letter from Fred Matt, Chairman of the Confederated Salish and Kootenai Tribes. An emailed version of the contents of Mr. Matt's letter is included as Appendix 3 below. The main point of the letter is that, "Should DNRC pursue negotiations for long-term contracts for purchase of water from BOR's Hungry Horse Project prior to resolution by adjudication or negotiation of the Tribes' on- and off-Reservation reserved water rights, the Tribes will formally object."

The Task Force discussed the letter and agreed that Mr. Mueller should call Mr. Matt and ask for an opportunity to meet with him and discuss it. Marc Spratt and Elna Darrow volunteered to participate in the meeting. The Task Force also agreed that Mr. Mueller should make the following points in the discussion:

- The purpose of the Hungry Horse water purchase would be to address the constraint on the legal availability of water posed by lower basin hydropower rights.
- Such a purchase could not affect Tribal water rights.

- Constraints on the operation of Hungry Horse unrelated to water rights may limit the availability of water from Hungry Horse for Basin water users.
- Water purchased by the state in Hungry Horse may become part of the water rights compact with the Tribes.
- Unless the BOR storage water right is determined to be invalid, state purchase of stored water would not appear to harm Tribal interests.

### **Task Force Work Plan**

The Task Force made no change to its work plan.

### **Public Comment**

There was no public comment.

### **Next Meeting**

The Task Force scheduled its next two meetings. In November, it will meet on Monday, November 14 in the meeting room in the DFWP Missoula Regional Offices at 3201 Spurgin Road. In December, the Task Force will meet on Tuesday, December 13 in the same location. The tentative agenda for the November meeting will include:

- Follow-up on Task Force membership;
- Report on the meeting with Fred Matt;
- Report on discussions with the Montana Water Center and the Riverine Institute about the ground water conference; and
- A presentation by the Montana Office of the Northwest Power Conservation Council on the operations of Hungry Horse Dam.

The December meeting will include a presentation the BOR on its hydrologic model of the Clark Fork basin.

## Appendix 1

<b>Name</b>	<b>Organization</b>	<b>Area/Interest Represented</b>	<b>Recommended Status</b>
Marc Spratt	RLK Hydro & Flathead Conservation District	Flathead Basin above Flathead Lake	Member
Elna Darrow	Flathead Basin Commission	Flathead Lake	Member
Bill Slack	Joint Board of Control of the Flathead Irrigation Project	Flathead River watershed below confluence with Flathead Lake to the Clark Fork River	Member
Arvid Hiller	Mountain Water Company	Municipal water utilities and Clark Fork watershed between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River	Member
Jay Stuckey	Green Mountain Conservation District	Clark Fork River Watershed below Flathead River confluence	Member
Jim Dinsmore	Granite Conservation District & Upper Clark Fork River Basin Steering Committee	upper Clark Fork River watershed	Member
Fred Lurie	Blackfoot Challenge	Blackfoot River watershed	Member
Harvey Hackett	Bitter Root Water Forum	Bitterroot River watershed	Member
James Steele, Jr.	Confederated Salish and Kootenai Tribes	Tribal Government	Member
Gail Patton	Sanders County Commissioner	Basin Local Governments	Member
Eugene Manley	Granite County Government	Basin Local Governments and	Member

Montana Water Resources Association

Matt Clifford	Clark Fork Pend Oreille Coalition	Conservation/Environment	Member
Holly Franz	PPL Montana	Hydropower Utilities	Member
Steve Fry	Avista Corporation	Hydropower Utilities	Member
Rep. Verdell Jackson	Legislature	HD 6	Ex Officio Member
Senator Jim Shockley	Legislature & EQC	SD 45	Ex Officio Member

**Appendix 2**  
**Clark Fork River Basin Task Force**  
**C/O Gerald Mueller**  
**440 Evans Avenue**  
**Missoula, MT 59801**

September 28, 2005

Mary Sexton  
Director  
Montana Department of Natural  
Resources and Conservation  
P.O. Box 201601  
Helena, MT 59620-1601

Dear Mary:

As you are aware, the *Clark Fork Basin Watershed Management Plan (Plan)* identified the legal availability of water as a possible constraint for both present and future water users in the Clark Fork River basin. The Plan also identified use of water now stored in Hungry Horse Reservoir as a possible remedy for this constraint, and recommended that the State of Montana open discussions with the US Bureau of Reclamation (BOR) to determine the availability and cost of temporary and long-term contracting options to support basin uses other than hydropower. As you also know, Representative Verdell Jackson sponsored HJR 3 in the last legislature on behalf of the Clark Fork River Basin Task Force (Task Force) which urged your department to enter into the negotiations with the BOR and to report to the Environmental Quality Council by January 1, 2007 on them.

At our meeting on September 19, 2005, the Task Force discussed the Hungry Horse negotiations with Rich Moy and you. Rich recommended and you confirmed that a good way to start the negotiation process would be for Governor Schweitzer to write to the BOR requesting a contract for a block of Hungry Horse water that the State can market to basin water users. A prerequisite for such a letter is determining how much water the State needs for a contract. Mike McLane has previously made a rough estimate that 250,000 acre feet of water might supply present and future consumptive needs for a lengthy period such as 50 years. Would you please have your staff review this number using the best information available and report back to the Task Force? Once we have this number, the Task Force intends to write to Governor Schweitzer requesting him to write to the BOR requesting the determined amount of water for a state water marketing contract.

Thank you.

Sincerely,

Gerald Mueller  
Task Force Facilitator



**Appendix 3**  
6 October, 2005

Mary Sexton, Director  
Montana Department of  
Natural Resources and Conservation  
P. O. Box 201601  
Helena, MT 59620-1601

Dear Director Sexton:

The Tribes have received and reviewed a copy of the letter of September 28, 2005 sent to you by Mr. Gerald Mueller, Facilitator, Clark Fork Basin Water Management Planning Task Force (copy enclosed for your convenient reference). Mr. Mueller provided a draft copy of this letter to the Tribes for review, and agreed to wait for comments from the Tribal Council before finalizing it. As it developed, Mr. Mueller mistakenly finalized the draft before the Tribal Council had the opportunity to review it. The following is the Tribes' response to Mr. Mueller's September 28 letter to you.

In the letter, Mr. Mueller references the Clark Fork Basin Watershed Management Plan (Plan) as having identified legal availability of water as a possible constraint on present and future water use in the Clark Fork Basin (Basin) and the use of water now stored at Hungry Horse Reservoir as a possible remedy for this possible constraint. Mr. Mueller further references the Plan as recommending that the State of Montana begin discussions with the Bureau of Reclamation (BOR) to determine the cost and availability of contracting options for water from the Hungry Horse Project to support Basin non-hydropower uses. In addition, Mr. Mueller refers to HJR 3, passed by the 2005 Montana legislature, which urges DNRC to enter into negotiations with BOR for such purposes.

In the letter, Mr. Mueller reviews the September 19, 2005 Task Force meeting with you and Mr. Rich Moy of DNRC, during which it was determined that an estimate of the amount of water to be requested from BOR be made and that DNRC review the estimate. Once the estimate was finalized, the Clark Fork Basin Water Management Planning Task Force would write to Governor Schweitzer requesting that he write to BOR requesting the estimated volume of water.

The availability of water from the Hungry Horse Project cannot be determined by DNRC or BOR for the same constraints and global uncertainty: Legal availability of water. Such legal availability cannot be determined until the on- and off-Reservation reserved water rights of the Confederated Salish and Kootenai Tribes have been quantified by adjudication or by compact between the Tribes, the United States, and the State of Montana. Furthermore, there are literally thousands of existing, unquantified, non-Indian, claims to surface and groundwater in the Clark Fork River Basin (including those of BOR at the Hungry Horse Project) which also require final adjudication before legal availability can be determined. Additionally, there are questions of water availability arising from Canadian transboundary issues.

Until such time as the thousands of unquantified claims in the Clark Fork Basin, including the Tribes' reserved water rights, are quantified and resolved, efforts by the State to negotiate contracts for the water-marketing of non-allocated portions of state-based water right claims of entities of the United States which are junior to those of the Tribes are premature. Conversely, the security of State-based, junior water rights claims and the value of planning for future water needs by all concerned parties would be substantially advanced by the successful negotiation of a reserved water rights compact with the Confederated Salish and Kootenai Tribes.

Should DNRC pursue negotiations for long-term contracts for purchase of water from BOR's Hungry Horse Project prior to resolution by adjudication or negotiation of the Tribes' on- and off-Reservation reserved water rights, the Tribes will formally object.

If you have any questions or wish to discuss this further, please do not hesitate to give me a call at 406.675.2700 at any time.

Sincerely,

D. Fred Matt  
Tribal Chairman